

MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Harry S Truman Building
Room 400
301 W High Street
Jefferson City, MO 65101
February 3, 2004
9:00 a.m.

Commissioners Present

Jack C. Baker, Member
Harriet Beard, Member
Ernie Brown, Member
Joanne Collins, Chairman
Michael Foresman, Vice Chairman
Barry Kayes, Member

Commissioners Absent

Frank Beller, Member

Staff Members Present

Jeff Bennett, Air Quality Analysis Section, Air Pollution Control Program (APCP)
Kay Craig, Program Secretary, APCP
Tim Duggan, Attorney General's Office
Steve Feeler, Enforcement Section Chief, APCP
Jim Gilstrap, Environmental Assistance Office (EAO)
Wayne Graf, Operations Section, APCP
Jim Kavanaugh, Operations Section Chief, APCP
Sarah McMichael, Public Information Officer, APCP
Refaat Mefrakis, Acting Permits Section Chief, APCP
Jon Molloy, Permits Section, APCP
Kyra Moore, Permits Section, APCP
Paul Myers, Operations Section, APCP
Jim Penfold, Director, EAO
Gus Ralston, Kansas City Regional Office
Melissa Seeligman, Commission Secretary, APCP
Byron Shaw, EAO
Kelen Shostak, St. Louis Air Quality and Mobile Source Coordinator, APCP
Lucy Thompson, EAO
Leanne Tippet, Director, APCP

Others Present

Karl Barke, Springfield Air Quality Control
Robert J. Brundage, Newman, Comley & Ruth
Eric Curtit, Missouri Department of Transportation
Dave Fraley, City Utilities of Springfield
Bob Henkes, Missouri Public Utility Alliance
Jim Lunan, Holcim
Kevin Perry, REGFORM
Chris Schreiber, Schreiber Engineering
David Shanks, Boeing
Terry Spence
Andrea Strickland, Barr Engineering Company
Melody Torrey
Steven Whitworth, Ameren
Charlie Wildt, St. Louis County Air Pollution Control

A. Call to Order

Chairman Joanne Collins called the Feb. 3, 2004, meeting of the Missouri Air Conservation Commission to order at 9:00 a.m. The Commissioners introduced themselves and Chairman Collins requested all cell phones and pagers be turned off or to be put on silent.

B. Minutes, Dec. 4, 2003, Meeting

Commissioner Harriet Beard moved to approve the minutes as written. Commissioner Mike Foresman seconded; all commissioners voted to approve the minutes as written.

C. Reports - The following referenced reports are in the Feb. 3, 2004, Missouri Air Conservation Commission Briefing Document.

1) ENFORCEMENT

Steve Feeler referred the commission to the Complaint Report beginning on Page 21. There were 156 complaints received during November and December. There were no complaints related to Little Blue Valley Sewer District. There is an agreement waiting for signature that deals with an extensive compliance plan and calls for a \$55,000 penalty. The program believes this issue is resolved.

Commissioner Barry Kayes mentioned her concern of the number of odor complaints and the fact that we can do nothing to document them. Mr. Feeler stated that the cold weather is not conducive to finding odor violations.

Commissioner Kayes also commented about having appropriate odor monitors put in place. Mr. Feeler noted that right now the program uses a scentometer as a screening tool and takes samples to be evaluated using olfactometry.

Commissioner Beard asked if there was any cooperation within the programs to combine enforcement issues. Mr. Feeler noted that the Air Program does have a dialogue with the other programs, but there is a problem with not having enough equipment to use.

Mr. Feeler next referred the commission to the Settlement Report on Page 47. In 2003, 338 cases were resolved totaling approximately \$400,000 in penalties paid and approximately \$550,000 suspended. In January, 28 cases have been settled. Commissioner Beard reminded everyone that the penalty money does not go to the department, it is sent to the school district where the violation occurred.

2) PERMITS

Refaat Mefrakis, Interim Permits Section Chief, referred the commission to the permit reports beginning on Page 55 with the Permit Applications Received Report. There were 79 applications received for both construction and operating permits for the month of November. There were 85 applications received in December and 1242 applications received for the year of 2003. Chairman Collins asked how these totals compared to 2002. Mr. Mefrakis stated that these were lower than 2002.

Mr. Mefrakis stated that there are a number of Prevention of Significant Deterioration permit application in house that the section is working through, two of which are power plants. Commissioner Foresman asked how the staffing situation is for the permit section. Mr. Mefrakis stated that there is no turnover, but staff is working overtime.

The Permit Applications Completed Report begins on Page 73. For the month of November, 66 projects were completed. For the month of December, 76 projects were completed and 1291 projects were completed for the year of 2003.

Mr. Mefrakis stated that the public notice went out on Jan. 11, 2004 on the construction permit for 3M in Nevada. This is a flexible permit where the program is working with EPA, Texas and Alabama to come up with a permit that will allow a facility to do some modification without a major hurdle of permitting

as long as they meet their emission cap for the facility. This promotes pollution prevention and allows flexibility for the facility.

The Operating Permit Progress Report begins on Page 92. The operating permit staff has made a significant progress in issuing Part 70 permits to meet the Dec. 31, 2003 EPA deadline. There are 33 of the original Part 70 permit applications left to be issued. There were 2164 applications completed out of 2401 applications received. Commissioner Beard congratulated the permit staff for doing a good job.

3) OPERATIONS

Jim Kavanaugh referred the commission to the operations reports beginning on Page 93 with the Rule and SIP Agenda. The Basic Operating Permit Rule and the New Source Review Rule packages have been put together and the tentative date to bring them to the commission is June of 2004.

The Rules in Progress Schedule begins on Page 109, followed by the State Air Quality Plan Status Report beginning on Page 113. In the NO_x statewide rule, the department is required to set the market rate for early reduction credits by February 1, 2004. During development of the rulemaking, stakeholders requested that the rule set a range for the credits, not less than \$500 or more than \$1,000 per ton. With the understanding that some contracts have already been negotiated at \$750 per ton and lacking any other criteria to base the rate on, the value was set at \$750 per ton for this year.

The Proposed Mercury Rule and the Interstate Air Quality Rule, better known as the Transport Rule, were published in the January 30th Federal Register for comment. Both of these proposed rules are applicable to the utility industry, and address sulfur dioxide, nitric oxides and mercury. The program is reviewing these proposals and will prepare appropriate comments.

4) UPDATE ON GLOBAL CLIMATE CHANGE

Paul Myers made a presentation on Global Climate Change. A copy of the presentation begins on Page 141 of the Briefing Document.

Commissioner Beard asked about how the foreign countries are handling the pollution controls, are they cracking down right away or are they just letting companies operate however they want? Mr. Myers stated that the European Union is addressing this from the larger regional standpoint. They are going forward with the idea that there will be a Global Treaty that will ask each country to reduce their emissions.

Commissioner Beard stated that as a country and as a state, we are concerned about the emissions from transportation.

Chairman Collins stated she was hopeful that Missouri could become a leader state in the Midwest consortium in dealing with climate change and how human activity affects it.

5) LEGISLATIVE UPDATE

Sarah McMichael provided a legislative update to the commission. There are thirteen bills proposed that would affect the commission or the Air Pollution Control Program this legislative session.

- HB 933 regulates the disclosure of environmental audit reports; a hearing for this bill is today.
- HB 978 creates the small business regulatory fairness board to serve as liaison between agencies and small businesses; a hearing for this bill was yesterday.
- HB 980 requires a regulatory impact report for certain rulemaking processes; this bill is currently on the House Calendar for Bill Perfection.
- HB 1181 suspends the motor vehicle emissions inspection program.
- HB 1276 allows moneys in the Natural Resources Protection Fund to be used to fund programs that encourage alternative energy sources.
- SB 718 creates the small business regulatory fairness board to serve as liaison between agencies and small businesses; a hearing for this bill was yesterday.
- SB 739 requires the department to provide an impact statement on rules and state the reasons for denial of permits; this bill has been referred to the Senate Committee on Government Accountability and Fiscal Oversight.
- SB 741 broadens the purpose of the Natural Resources Protection Fund; a hearing for this bill was on Jan. 22, 2004.
- SB 851 changes procedure for motor vehicle emissions inspections in certain cases; this bill has been referred to the Senate Commerce and the Environment Committee.
- SB 900 states that vehicles manufactured 26 years before the current model year are exempt from the emissions inspection; this bill has been referred to the Senate Commerce and the Environment Committee.
- SB 949 transfers hearings on environmental issues to the Administrative Hearing Commission; a hearing for this bill was on Jan. 27, 2004.
- SB 954 allows the department to hire independent contractors to expedite the building of air containment units.
- SB 989 establishes a system of environmental audits to reduce state and local regulation; a hearing for this bill is today.

Commissioner Kayes asked if HB980 would change the sequence of rulemakings. Leanne Tippet noted that the regulatory report that the department is implementing would add some process to the rulemaking before the rule is actually filed as a proposed rule in the Missouri Register.

Chairman Collins encouraged the individual commissions to visit with their state legislator in relation to their position. Commissioner Beard also stated that the commission would come and testify if needed.

6) I/M UPDATE

Kelen Shostak reported that the emissions inspection sticker would now be smaller effective January of 2004. It is now about the size of the safety inspection sticker.

The Repair Effectiveness Index is now being published. This is a score for the repair technicians that perform emissions related repairs in the St. Louis area. The score is based on the number of emission related repairs performed that resulted in a passing retest divided by all emission related repairs. The first report came out in December and covered the last six months.

Commissioner Kayes asked if these are the reliable car repair technicians. Ms. Shostak stated that these are the recognized repair technicians.

Ms. Shostak noted that Illinois I/M has gone to the pass-fail OBD testing for the metro east area. They started on Jan. 1, 2004 and Missouri plans to start on Jan. 1, 2005.

7) DIRECTOR'S REPORT

Air Advisory Forum Update

Next meeting will be Feb. 26 from 10:00 a.m. to 1:00 p.m. at the Elm Street Conference Facility.

The three items that we undertook at the beginning, Operating Permits, Construction Industry Permit by Rule, and Insignificance Levels are moving along and well into the process. The group is leaning to next looking into the EIQ process and the new MoEIS online system.

Holcim

The program released a preliminary draft permit to the company on January 23rd. A meeting was held with the company last Friday to work through some details and questions. There are some changes to be made and the program is working very diligently to get those changes accomplished so that the permit can go on a formal public notice.

Legislation

The program has been responding to many media calls on HB1181. Despite the fact that we did reach the 1-hour standard in St. Louis, we are still facing a new standard with the 8-hour standard. The I/M program is and will remain a very important component of our air quality strategy for the area.

SB949 would add a commissioner to the Administrative Hearing Commission (AHC). The AHC would conduct the process and have the decision making authority on the appeals referred to them.

SB739 concerns the impact statement required on rulemakings. The Air and Land Protection Division has been using a version of the Regulatory Impact Report (RIR) for a couple of months. Steve Mahfood has sent out a directive to the department asking all the divisions that do rulemaking to follow the RIR. The RIR is something that will document what we have been doing all along.

AdHoc Commissioners Workgroup

This committee was convened by the department and chaired by Norella Huggins, of the Hazardous Waste Commission. Chairman Collins and Commissioner Foresman are participating on the committee. They are looking at ways that commissions might improve the way they do business and making suggestions. The RIR was one of the things that they have reviewed, made comments, and edited and have formally adopted.

Chairman Collins added that she and Commissioner Foresman have been participating in the workgroup. Chairman Collins requested Ms. Tippet to set up a work session for the Commissioners after the tour next month.

Alaska Supreme Court Decision

Tim Duggan gave an update on the case of Alaska Department of Environmental Conservation vs. EPA. Alaska is a delegated permitting authority under the PSD program. The issue was a Zinc mine with several power generators. Because they are in a PSD area for NO_x, they have to apply Best Available Control Technology on any major emission source. There were several draft permits

issued by Alaska. Alaska proposed SCR as the BACT. The Zinc Company proposed a low NO_x technology to get the same reduction as they would with SCR. The Zinc Company never came to Alaska with the data Alaska needed to evaluate whether or not SCR was not really BACT in the first place. Having made the initial determination, in a draft permit, that SCR was appropriate, Alaska later backed off based on representations by the company. Without the data the company should have provided Alaska to prove the case, EPA stepped in and issued orders preventing construction of the unit at the mine because the state had not justified abandoning SCR as BACT for this particular unit. The Supreme Court upheld EPA's oversight authority.

Commissioner Foresman asked why Alaska would not include the other six units in their approach to the permit process. Mr. Duggan stated that Alaska was frustrated by the fact that they could not get the company to give them the relevant financial data.

D. Unfinished Business

8-Hour Ozone Boundary Update

On Dec. 4, 2003, the program received a letter from EPA to include Ste. Genevieve County in the St. Louis area, which was not part of the state's recommendation. The program is in the process of developing a response to that recommendation, which is due Feb. 6, 2004. A copy of this letter will be provided to the commissioners.

On Dec. 12, 2003, EPA responded to the 8-hour boundary recommendations for Kansas City. EPA agreed to flag some exceedences in Kansas City that the program felt resulted from some burning and a tank explosion. This means that Kansas City is not in violation of the standard for 2001 – 2003 monitoring periods. The program will submit a revised recommendation. We only have two years of data for one monitor. There must be three years of data before you can make a determination if there is a violation. It is likely that this monitor will be in violation at the end of this upcoming ozone season. Therefore we expect Kansas City's attainment status to be short lived.

EPA is set to make the final designations of non-attainment areas by April 15, 2004.

The program is looking at an issue regarding large upwind sources of NO_x that are outside the non-attainment area but still have an impact on the non-attainment area. Some time ago, the program was meeting and having discussions with EPA regions VII and V. Currently, the discussion involves the program and representatives of the regulated community.

E. Public Hearing

None

F. Recommended for Adoption or Actions to be Voted on

Paul Myers presented 10 CSR 10-6.260 (amendment) Restriction of Emission of Sulfur Compounds. Information on the proposed amendment begins on Page 97 of the briefing document. Commissioner Kayes moved to adopt the revised amendments. Commissioner Beard seconded; all commissioners voted to adopt.

Wayne Graf presented the St. Louis PM_{2.5} Standard – Boundary recommendation. Information on the proposed recommendation begins on Page 107 of the briefing document. Chairman Collins requested a copy of Mr. Graf's report. Mr. Graf stated he would send one to the commissioners this week since he was working from a marked up copy. Commissioner Kayes asked if the recommendation would come back to the commission again if the EPA modified it. Mr. Graf stated that it would not come back to the commission again since the recommendation the commissioner is approving today would be the recommendation that the program would provide. Commissioner Beard moved to approve the recommendation. Commissioner Foresman seconded; all commissioners voted to approve.

Chairman Collins reminded the audience that all the information presented today is available on the Departments Web site, which is www.dnr.mo.gov.

G. New Business

Regulatory Impact Report

Commissioner Foresman moved that the commission adopt the Regulatory Impact Report (attachment A), which was put together by the department's Commission Core Workgroup and adopt it as a process that the commission would follow to handle new rules and regulations. Commissioner Beard seconded. Chairman Collins asked if this would pose a problem for the staff. Ms. Tippet stated that it would not. All commissioners voted to adopt.

Attorney Generals Office Referral Requests

Mr. Feeler deferred a referral request for Lakeside Shopping Center LLC, Construction Technologies, and Pair Dice Construction until March if not resolved.

Mr. Feeler presented a referral request for Doug and Debbie Hood. Information on the proposed referral begins on Page 133 of the briefing document. Commissioner Foresman

moved to refer Doug and Debbie Hood to the Attorney General's Office for resolution. Commissioner Kayes seconded the motion. All commissioners voted for referral to the Attorney General's Office.

H. Appeals and Variance Requests

Kyra Moore presented a request for a variance to the Insignificant Level for construction permitting. Information on the request begins on Page 139 of the briefing document.

Commissioner Foresman asked if this was an aggregate exemption or is it for each modification, and how would the program review them. Ms. Moore stated it was for each modification and the program would review any and every modification. Commissioner Foresman asked if this would change any reporting requirement. Ms. Moore stated there is no requirement to report any modification if a permit is not required, although they do have to report the modification on their permit renewal and their Emission Inventory Questioner (EIQ). Commissioner Foresman asked if the modification is highlighted, or is there wording on the EIQ about the modification. Mr. Feeler commented that there are two times a year that the facilities are looked at to see if there are a number of changes. If there are a number of changes, it will be sent to the Permits section to see if this is a circumvention of the rule.

Chairman Collins asked for a reminder of why Lead is exempt. Ms. Tippet stated that Lead is also a Hazardous Air Pollutant.

Commissioner Foresman moved to grant the variance request for 12 months. Commissioner Kayes seconded the motion. All commissioners voted to grant the variance request.

I. Open Session

Kevin Perry from REGFORM stated that he was glad to be a part of the variance process. He stated that the process happened professionally, timely and focused on the data and facts.

J. Future Meeting Dates

March 24, 2004 – Nevada
Workgroup Meeting
3M Tour

March 25, 2004 – Nevada

Days Inn
2345 Marvel Road
Nevada, MO 64772

April 29, 2004 – Jefferson City

Governor Office Building
Room 450
200 Madison Street
Jefferson City, MO 65101

May 27, 2004 – St. Louis

Millennium Hotel
Meramec Ball Room
200 S. 4th Street
St. Louis, MO 63102

June 24, 2004 – Jefferson City

Governor Office Building
Room 450
200 Madison Street
Jefferson City, MO 65101

July 29, 2004 – Cape Girardeau

Pending

August 26, 2004 – Jefferson City

Governor Office Building
Room 450
200 Madison Street
Jefferson City, MO 65101

September 30, 2004 – Kansas City

Pending

October 28, 2004 - Kirksville

Pending

December 9, 2004 – Jefferson City

Governor Office Building
Room 450
200 Madison Street
Jefferson City, MO 65101

K. Discussion of Pending Litigation and Legal Matters


Commissioner Foresman moved to go into closed session. Commissioner Baker seconded the motion. All commissioners voted to go into closed session.

Commissioner Foresman moved to go back into open session. Commissioner Beard seconded the motion. All commissioners voted to go back into open session.

L. Missouri Air Conservation Commission

Chairman Collins adjourned the Feb. 3, 2004, Missouri Air Conservation Commission meeting at 11:10 a.m.

Respectfully submitted,



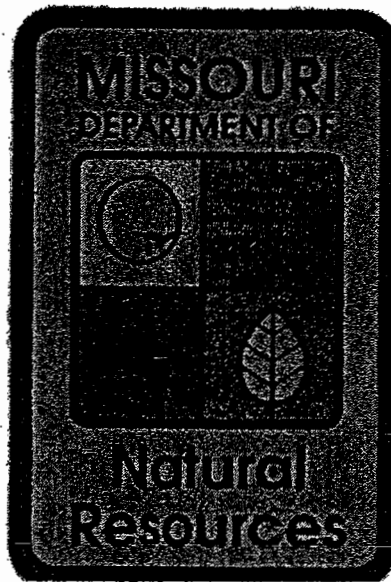
Leanne J. Tippet, Director
Air Pollution Control Program

Approved:

Joanne Collins, Chairman
Missouri Air Conservation Commission

Regulatory Impact Report

Requirements and Content



**Missouri Department of Natural Resources
January 9, 2004**

Endorsed by Commission Core Workgroup January 9, 2004

Introduction

The Regulatory Impact Report (Report) is a means to provide to the public and interested parties the information on rule development within the Department of Natural Resources. It is a summary of the information, discussion, input and rationale used by the department in development of a draft rule. The goal of this Report is to ensure accountability, consistency and transparency in the rulemaking process. The Report uses a standardized question and answer format that clearly and consistently addresses the developmental aspects of rulemakings. Distribution of the Report will make this information readily available to a wide audience in a timely manner.

The Report is to be included with the draft rulemaking folders for division management and department approval. For lengthy Reports, an executive summary is to be developed for electronic distribution by email and on the web. This summary will be used in the long abstract field of the Rule Action Tracking System in the Regulatory Agenda on the department's web page. Programs will ensure that the Report is made available via the Internet and upon request.

This document lays out the minimum inclusions to be addressed for all rulemaking. Additional questions may be added on a case-by-case basis where additional or different information may assist those in reviewing a rulemaking concept. The Report should be clear in the text whether it is referencing an entire draft rule or the rulemaking change in progress.

Applicability

A Report will be developed for every rulemaking. The length of the Report will vary widely, depending on the complexity and scope for the rulemaking. For some rulemaking proposals, a detailed Report with numerous technical and scientific references, explanations, stakeholder meeting notes or recommendations will be warranted. Other rulemakings, such as one amending an address, will require a simple Report of a page or two. Supporting documents should be made available via references, hypertext links, embedded pdf files or paper copies on file as appropriate for the rulemaking.

Federal mandates have already undergone review and public input. If the rulemaking is the adoption of federal mandates by reference without variance, most of the Regulatory Impact Report questions do not need to be answered. This is indicated in the section detailing the questions. A link to the federal docket for these mandates must be included in the Report.

Rulemaking that meets the criteria in Section 536.025.1 RSMO as emergency rules are promulgated without following the standard rulemaking process. In this situation, only questions 1 through 5 of the Regulatory Impact Report must be answered. Permanent adoption of an emergency rule requires a completed Regulatory Impact Report.

A rule is termed "draft" as it works its way through development in the department. Once a rule is submitted to the Secretary of State and the Joint Committee on Administrative Rules, it is termed "proposed".

Timeline

The attached timeline illustrates rule development through the department and on to the Secretary of State and Joint Committee on Administrative Rules. It is a hypothetical timeline provided to indicate the general flow of rule development.

Report Contents

The completed Report will consist of the following:

- Answers to the questions contained in this document.
- A draft schedule that a particular rulemaking will follow.
- The identification of opportunities for the public to provide input to the development of the rulemaking that can include, but is not limited to, stakeholder meetings, public hearings, commission meetings. These opportunities can be formal, such as a hearing, or informal. Approximate dates for these opportunities should be noted.
- Information on how to contact the relevant board, commission or staff with input on the rulemaking.

Distribution of the Completed Report and Draft Rule

The completed Report and the draft rule will be forwarded to the relevant board or commission. If there is none, the Report is provided to department director. At the same time, the Report and draft rule will be placed on the department's web site, and conspicuously labeled as a new addition on the Regulatory Agenda page. Paper copies will be sent to those requesting copies at the same time. The Report will be subject to comments from the public or interested parties, and discussion before the relevant board or commission. The relevant board or commission must make a finding of necessity before adopting a rule.

Following approval of the draft rule language at a minimum by the department director, the Regulatory Impact Report becomes part of the administrative record for that rulemaking. The purpose of the administrative record is to provide a source that contains the references, information, comments and responses made during the rulemaking process after the initial approval and through the formal rulemaking process until the rule becomes effective.

Regulatory Impact Report Template

Program _____

Rule number (if known) _____ Rule title _____

Type of rule (Circle one) New Amendment Rescission

Submitted by (Program director name and signature)

Review and approval

Legal Counsel _____ Date _____

Division Director _____ Date _____

1. What is the purpose of the rulemaking?

Describe what issue or problem being addressed by the rulemaking. Pictures and graphs may be used. Emphasize the ultimate goal of the rulemaking, not an intermediate result. For instance, the rulemaking may be needed for EPA delegation, but you should primarily explain why the rule requirements are needed from an environmental standpoint. EPA delegation is an intermediate result.

2. Why is the rulemaking being proposed now?

Explain the circumstances that bring on this rulemaking now.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- Reference the Code of Federal Regulations proposed for adoption.
- Provide a brief statement of why the federal mandate is being adopted.
- Provide the web link to the federal docket for this rule or rule amendment.
- The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.

No _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

Name and cite the state statutes as specific as possible

5. What does the rulemaking require and how does it produce environmental benefits?

Explain the mechanics of the rule or amendment requirements, how requirements are met and how they produce results. For administrative type rules (ie, permit process, fees, reporting), how does the rule benefit the situation, whatever it is. Also explain the certainty that the rulemaking will produce the intended results.

Note: If this rulemaking qualifies as an emergency rulemaking under Section 536.025.1 RSMO, the following questions do not need to be answered.

6. What readily available information was used to develop the rulemaking?

Provide references on the types, amounts and sources of scientific information that was used to develop the rulemaking. Identify other information used and where this information can be found.

7. Are there other effects that may accompany the rulemaking?

Identify other possible effects, if any, that may result from the rulemaking. Explain the effect or impact to the extent necessary.

8. What would happen without the rulemaking?

Explain the short and long term consequences of not taking versus taking the rulemaking action.

9. Are there other ways these public benefits could be obtained?

Describe other ways that might be possible in terms of their cost, convenience, acceptance and other factors, and why they were not chosen as the preferred method.

10. Who is affected by the rulemaking?

Identify both those who will bear the requirements of the rulemaking as well as those who benefit from it. For those being regulated indicate:

- 1) types (e.g., industrial sectors, small/large businesses).*
- 2) number of.*
- 3) general locations (e.g., rural northern Missouri, or St. Louis region, or evenly distributed across the state).*

11. How much will the rulemaking cost?

Note: the official cost estimate will be included in the fiscal note published with the proposed rule in the Missouri Register.

Include costs of compliance for all aspects of the rule following its adoption. If the rule is identical to an existing federal rule, include the costs of complying with that rule and note the existing requirements.

Include costs to the agency and other agencies to implement the rulemaking. Explain the basis of the cost estimates and the assumptions used. If the costs are less than \$500 in the aggregate for purposes of the fiscal notes, explain why that is the case.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because:

- ☐ *The proposed rulemaking does not affect a for-profit business with fewer than 50 full or part time employees. (Provide justification for this determination.)*
- ☐ *This is an emergency rulemaking.*
- ☐ *The proposed rulemaking substantially codifies existing*
 - ☐ *state law;*
 - ☐ *federal law; or*
 - ☐ *federally mandated regulations that have complied with the federal Regulatory Flexibility Act as amended by the Small Business Regulatory and Enforcement Fairness Act of 1996.*

If Executive Order 03-15 does not apply to this rulemaking, you are not required to complete the remainder of this section.

Executive Order 03-15 applies to this rulemaking. Please answer the questions below.

Describe the type of small businesses that will be directly affected by, bear the cost of, or directly benefit from the proposed rules

Describe the small businesses that will be required to comply and adverse affects.

Provide in dollar amounts, the increase in direct costs (including revenue lost) associated with required activities, if such costs can be determined.

Provide probable monetary costs and benefits to the agency and other agencies directly affected, and the manner in which the moneys will be used, if such costs can be determined.

What has the department considered to reduce the rule's impact on small businesses, such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating techniques?

Describe the opportunities provided by the department to involve small businesses in the rulemaking.

How does this draft rule compare to comparable federal, state or county standards?

13. Does the rulemaking have any effect on state revenue?

Explain how and how much. Include information on the impact to any fund sources.

14. Who was involved in developing the rulemaking?

Identify stakeholders, commissioners, citizens, organizations and any others that have had opportunities for input or review of the development of the proposed rule or rule amendment. Describe the involvement, such as workgroup meetings, frequency, and attendance. Include as attachments minutes, reports or recommendations from those opportunities.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

Describe any other means the rulemaking has been shared with interested parties beyond those included in the above answer.

16. Who may I contact to either ask questions or provide input on this rulemaking?

Provide contact information for the program and the appropriate board or commission (if applicable). Contact information includes at a minimum: name and address for written comments and program email address.

17. How can I provide formal comments on either the Regulatory Impact Report or the proposed rulemaking?

Provide information on all the opportunities that exist for this rulemaking, such as contact information for written comments; the approximate dates of commission or public meetings or public hearings; or other available options.

18. What is the draft schedule for this rulemaking?

Outline the approximate actions and dates that comprise the completion of this rulemaking, especially opportunities for public comment such as commission meetings, hearings, or written comment periods.

DNR Rulemaking Process including the Regulatory Impact Report

DNR Rulemaking Process Draft Rule

Need for new rule or revision identified

- > Begin drafting Regulatory Impact Report
- > Advise board or commission of rulemaking
- > Put on DNR Regulatory Agenda
- > DNR legal review

Begin rule development

- > Stakeholder meetings if appropriate
- > Investigate: public and private costs, environmental effects, technical and administrative aspects

Complete Regulatory Impact Report and draft rule language

- > Provide to stakeholder group members
- > Provide to AGO for takings analysis
- > Provide to MDC, MDA, DHSS, DED according to Executive Order 02-05
- > Provide to division and department management for approval

The RIR and draft rule disseminated

- > RIR and draft rule provided to board and commission members
- > RIR and draft rule made available to the public via Internet or by asking program

Discussion by board or commission

- > Draft rule possible agenda item for public input
- > Staff presentation of draft rule to be presented to JCAR and SOS

Draft rule approved by department director at a minimum

RIR becomes a part of the administrative record with additions of information; comments or any materials developed following approval of draft rule

Formal Rulemaking Process Proposed Rule

Proposed Rulemaking filed with JCAR and SOS

Proposed rule published in *Missouri Register*.

Public comment period

- > Public hearing or written comment period or both
- > Program responds to comments
- > Redrafting of proposed rule if needed
- > All materials added to administrative record

Approval of proposed rule by board or commission or department director as appropriate

Order of Rulemaking submitted to JCAR, SOS and OA

Final order published in *Missouri Register*

Rule published in Code of State Regulations

Rule becomes effective. Administrative record established.

Department of Natural Resources
Air and Land Protection Division
Monthly Air Pollution Control Program Summary Report
For All Regions - 1/1/2004 to 2/29/2004

Number of Complaints Received RE:

<i>Asbestos</i>	9
<i>Burning</i>	41
<i>Fugitive Dust</i>	9
<i>Odors</i>	44
<i>Particulate</i>	4
<i>Non-regulated</i>	0
<i>Toxics</i>	0
<i>Other</i>	27

Of the above, 15 complaints involved multiple emissions.

Total of Complaints Received:. 119

Number of Investigations of Complaints:

<i>Received during report period.</i>	86
<i>Received prior to report period.</i>	6

Total number of investigations completed: 92

Number of Sources:

<i>Non-Regulated.</i>	0
<i>In compliance with regulations.</i>	102
<i>In violation of regulations.</i>	17
<i>Referred to local air pollution agencies.</i>	0
<i>Referred to other DNR program.</i>	0
<i>Requiring follow-up surveillance.</i>	0

Number of formal notices of violation issued: 17

NOTE: "Comp. Info" refers to complainant information. This is the information the department receives from the complainant and seeks to accurately reflect the nature of the allegation as it was made. Those statements of allegations do not necessarily reflect the legal standard upon which inspections would be made.

Department of Natural Resources
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Dates Received or Inspected: 1/1/2004 through 2/29/2004

Region	Inspection Date	Date Received	Suspected Source Owner/Operator	City	County Name	Type of Complaint	Complainant	Inspector Initials	NOV
KCRO		1/16/2004	RAY-CARROLL ELEVATOR	Hardin	Ray	Fugitive Dust	Fred Smith	RAV	
Comments									
Comp. No.	KC9240	Comp. Info							
KCRO	1/1/2004	12/29/2003	PRIME TANNING	St. Joseph	Buchanan	Odors	Sarah Sibern	MRM	
Comments No detectable odor with scentometer near Prime Tanning. Complainant will report further problems and log circumstances.									
Comp. No.	KC9213	Comp. Info Strong smell nearly takes your breath away. Smell has been a problem for 10-20 years. The worst in the last 6 months. Smell is the same as that noted from material leaking from "glue sloes" track on Packers Avenue 6 months ago. Smell worse at 10:30 a.m. in valley/low areas on complainant's property 12-29-03. The same smell on the same day at 10:02. The smell is not like "rotten eggs" or lagoon smell. Causes eyes to water, leaves metallic taste in mouth, causes nausea. The plant decreased aerator in oxidation pond (south of facility) with low temperatures this week.							
KCRO	1/7/2004	1/6/2004	HPI COMPANY	St. Joseph	Buchanan	Other	Anonymous	MRM	
Comments 1. No detectable odor at the time of inspection with scentometer. 2. Possibel mismanagement of hazardous wastes. Refer to WH unit, KCRO.									
Comp. No.	KC9214	Comp. Info Odor coming from HPI Company. Odor is a pesticide smell ("Strong bug spray"). Complainant noted odor several blocks to Northeast of company worse several days before Christmas. Also worse during warm weather.							
KCRO	1/12/2004	1/9/2004	KAT CONSTRUCTION	Odessa	Lafayette	Burning/Other	Anonymous	AMW	
Comments KAT Construction received an Open Burn Permit on January 5, 2004, and uses an Air Curtain Destructor at the open burn site. No violation observed.									
Comp. No.	KC9212	Comp. Info Trees and brush burned inside Odessa City Limits.							
KCRO	1/12/2004	1/6/2004	MERLIN ANSTINE	Windsor	Johnson	Burning	Anonymous	AMW	KC21
Comments Notice of Violation #2142KC issued for illegal burning.									
Comp. No.	KC9220	Comp. Info Property owner burned 2 mobile homes over the weekend and appears to be planning to burn a third. Can be seen from road.							
NERO		2/23/2004	PSF WHITETAIL	Unionville	Putnam	Odors	Terry Spence	SMB	
Comments At 7:55 p.m., the Kirksville Weather Station reported winds from the South at 7 mph.									
Comp. No.	NE9420	Comp. Info Odors from the Premium Standard Farms' Whitetail facility were bad at the Terry Spence residence on Saturday evening, February 21, 2004. He described them as a rotten sewage smell. Winds were out of the Southeast.							
NERO		1/14/2004	UNKNOWN	Taylor	Marion	Burning	Anonymous	DJM	
Comments									
Comp. No.	NE9356	Comp. Info On 1/12/04 at approximately 6:20 p.m., the complainant reports observing a fire at a used car lot/salvage yard. The fire was visible from Highway 24 and was burning near a billboard (outdoor) sign located near the Southeast edge of the property. The complainant reports the business opened approximately 1 to 1 1/2 years ago.							

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Region	Inspection Date	Suspected Source Received Owner/Operator	City	County Name	Type of Complaint	Complainant	Inspector Initials NOV
NERO	2/18/2004	JERRY BENDER-FAYETTE	Fayette	Howard	Burning	Mr. Bob Morgan	
Comments							
Comp. No.	NE9409	Comp. Info The City of Fayette is demolishing about 31 houses under a grant. The demolition notifications have not been submitted. Three buildings have been torn down so far. They are then hauled to the city lake west of the city or to the police pistol range where they are burned.					
NERO	2/23/2004	PSF WHITETAIL	Unionville	Putnam	Odors	Jack Parrish	SMB
Comments According to the Kirksville Weather Station, winds were blowing from the West at 17 mph at 6:23 p.m. Winds were variable.							
Comp. No.	NE9419	Comp. Info The complainant reported rotten odors from the Premium Standard Farms' Whitetail facility at his house on 2/20/04 at 6:11 to 6:20 p.m. He could not explain why he was having odors because winds were blowing from the Northwest at speeds he estimated to be 15-20 mph at the time of the observation and he lives Northeast of the Whitetail facility.					
NERO	2/23/2004	PSF WHITETAIL	Unionville	Putnam	Odors	Terry Spence	SMB
Comments							
Comp. No.	NE9421	Comp. Info Odors from the Premium Standard Farms' Whitetail facility were bad at the Terry Spence residence on Sunday morning, February 22, 2004.					
NERO	2/24/2004	PSF WHITETAIL	Unionville	Putnam	Odors	Fred, Leta & Melody Torrey	SMB
Comments Wind direction at the time of the report was from the Southeast at 8-13 mph.							
Comp. No.	NE9423	Comp. Info On 2/22/04 strong hog barn manure odors from the Premium Standard Farms' Whitetail facility were noticed at the complainant's house early in the evening and were still there at 10:00 p.m. There was very little (if any) wind and temperatures were in high 30s to low 40s.					
NERO	2/23/2004	PSF WHITETAIL	Unionville	Putnam	Odors	John & Linda Laughlin	SMB
Comments							
Comp. No.	NE9418	Comp. Info On Saturday night (2/21/04), odors from the Premium Standard Farms' Whitetail facility were bad at the complainant's house. The odors were inside the house and lasted a long time.					
NERO	2/23/2004	PSF WHITETAIL	Unionville	Putnam	Odors	Terry Spence	SMB
Comments Winds were variable during the evening of 2/22 according to the Kirksville Weather Station. Ranged from the Northwest, West Northwest, West Southwest, to the South at 7 mph.							
Comp. No.	NE9422	Comp. Info Odors from the Premium Standard Farms' Whitetail facility were bad at the Terry Spence residence on Sunday evening, February 22, 2004. Winds were out of the Southeast.					
NERO	1/2/2004	1/2/2004 PSF WHITETAIL	Unionville	Putnam	Odors	Melody, Fred & Leta Torrey	SMB
Comments No on-site investigation made. Collected information for later investigations. Winds were blowing from the East at 8 mph at 2:30 p.m. and the East Northeast at 6 mph at 7 p.m. according to the Kirksville Weather Station.							
Comp. No.	NE9334	Comp. Info On 12/31/03 at 2:30 p.m., the complainant noted a strong hog manure odor coming from the Premium Standard Farms' Whitetail facility. The wind was out of the East and very breezy. At 7 p.m., the odor was reported to have grown steadily worse. It was described as a strong manure and barn smell.					

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Region	Inspection Date	Date Received	Suspected Source Owner/Operator	City	County Name	Type of Complaint	Complainant	Inspector Initials	NOV
NERO	1/2/2004	1/2/2004	PSF VALLEY VIEW	Green City	Sullivan	Odors	Ray Catlett	SMB	
Comments No on-site investigation conducted. Winds were blowing from the Southeast at the time of the report.									
Comp. No. NE9333 Comp. Info On Christmas Day at 7 a.m., the complainant reported a terrible odor from the Premium Standard Farms' Valleyview facility at his house.									
NERO	1/5/2004	1/5/2004	PSF WHITETAIL	Unionville	Putnam	Odors	Melody Torrey	SMB	
Comments No on-site investigation made. Collected information for later investigations. The wind was blowing from the East Southeast at 8 mph with 100% humidity and 50 degrees F temperatures, according to the Kirksville Weather Station.									
Comp. No. NE9340 Comp. Info On 1/2/04, at 6 a.m., the complainant noted a strong hog manure smell coming from the Premium Standard Farms' Whitetail facility. The wind was out of the Southeast and it was very foggy and damp out.									
NERO	1/7/2004	1/7/2004	MIKE & LISA CRANE	Bethel	Shelby	Asbestos	Jerry Eber & Wendy Brumbaugh	SMB	0616N
Comments Mr. Boone took pictures of the buildings. Issued Notice of Violation #0616NE for failure to inspect the Community Center and the former Logan Blacksmith shop for asbestos prior to beginning renovation.									
Comp. No. NE9359 Comp. Info Mike & Lisa Crane renovated several buildings in Bethel without having them first inspected for asbestos. Buildings renovated include "Aunt Feeny's House," the "Community Center," the "Logan Blacksmith Shop," and "Opal's House." Aunt Feeny's house and Opal's house were both used for renting out rooms, which would make them subject to asbestos regulations. The other two buildings have previously been places of business.									
NERO	1/8/2004	1/8/2004	PSF WHITETAIL	Unionville	Putnam	Odors	Melody Torrey	SMB	
Comments No on-site investigation made. Collected information for later investigations.									
Comp. No. NE9351 Comp. Info On 1/6/04 as the complainant drove by the Premium Standard Farms' Whitetail facility at 6:30 a.m. and again at 4 p.m., she encountered a strong lagoon odor coming from the facility that made it difficult to breathe. The wind was from the Southwest and it was very cold.									
NERO	1/8/2004	1/8/2004	PSF WHITETAIL	Unionville	Putnam	Odors	Melody Torrey	SMB	
Comments No on-site investigation was made; collected information for later investigations. The winds were from the south-southwest at 10 mph in the morning and from the south at 14 mph in the afternoon according to the Kirksville Weather Station.									
Comp. No. NE9350 Comp. Info On 1/7/04, as the caller drove by the Premium Standard Farms' Whitetail facility at 6:30 a.m., she encountered a strong gassy odor coming from the facility that caused severe coughing. She found the same odors around 4 p.m. while driving by the facility.									
NERO	1/8/2004	1/8/2004	MCALISTER & SONS TRACK	Cairo	Randolph	Burning	Anonymous	DLK	
Comments Mr. Kinkhorst and Mr. Slechta observed untreated wooden pallets burning at McAlister & Sons Track Service. They met with Russ McAlister, owner, and explained that open burning the pallets was against the Missouri Air Conservation Law. Mr. McAlister said he was not aware of that and immediately smothered the fire by dumping gravel and dirt over the burning pallets. Mr. McAlister will be required by the Solid Waste Program to remove the remaining debris and have it taken to a sanitary landfill. He will also be required to provide receipts showing proper disposal of the materials. Mr. McAlister was very cooperative in this matter and immediately put out the fire upon Mr. Kinkhorst and Mr. Slechta's arrival to the property.									
Comp. No. NE9346 Comp. Info There is open burning of wooden pallets at McAlister & Sons Track Service approximately four miles south of Jacksonville on Highway 63.									

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NERO	1/9/2004	1/6/2004 ROD BRADLEY	Mercer	Mercer	Burning	Sean Reames	SMB 0618N
Comments	Issued Notice of Violation #0618NE for illegal burning of demolition waste (vacant house trailers) based on the Mercer County Sheriff's report. Mr. Bradley has been issued Notice of Violations for open burning of demolition waste twice before.						
Comp. No.	NE9352	Comp. Info	Rod Bradley was found setting fire to 10 house trailers at Lake Marie during Christmas week. He is not the owner of the trailers. He was caught driving a motorcycle painted black and wearing black clothes with a gas tank behind the seat for spraying the trailers. He set three trailers per night on fire and was caught the third night when he ran into a road blocked by a fire truck. Mr. Bradley was issued Notice of Violations for illegal burning on 6/22/01 and 3/14/02. He is in the Mercer County Jail being held for arson.				
NERO	1/16/2004	1/16/2004 PSF WHITETAIL	Unionville	Putnam	Odors	Melody Torrey	SMB
Comments	No on-site investigation made. Collected information for later investigations. The winds were calm in the morning and blowing from the South at 10 mph in the afternoon.						
Comp. No.	NE9366	Comp. Info	On 1/15/04 at 6:30 a.m. and again at 4 p.m., the complainant found a strong lagoon/gassy odor coming from the Premium Standard Farms' Whitetail facility while driving by. On both occasions, the odor burned her eyes, nose and made it difficult to breathe.				
NERO	1/20/2004	1/20/2004 RONALD BLANKENSHIP	Unionville	Putnam	Burning	Steve Boone	SMB 0617N
Comments	Mr. Boone found Mr. Blankenship burning a brush pile and he used a tractor tire to start the fire. It was generating black smoke. Mr. Boone explained to him that a brush pile could be burned, but a tire could not be used to start the fire. Mr. Blankenship said he knew waste lumber could not be burned, but he didn't know a tire could not be used to start a brush pile fire. Mr. Boone gave Mr. Blankenship a copy of the open burning regulations and a copy of the construction and demolition technical bulletin. Issued Notice of Violation #0617NE to Mr. Blankenship for open burning of a tractor tire.						
Comp. No.	NE9365	Comp. Info	A dark column of smoke observed coming from a farm while Mr. Boone was driving by.				
NERO	1/20/2004	1/20/2004 PSF WHITETAIL	Unionville	Putnam	Odors	Fred & Melody Torrey	SMB
Comments	Mr. Boone conducted an on-site investigation while in the area. The winds were variable, blowing from the South Southeast to the South Southwest at less than 5 mph, with a temperature of about 25 degrees F. Mr. Boone checked for odors and found odors present, but at less than a 2:1 dilution threshold. Odors were not detectable in front of the complainants' house at the time of the investigation. No violation of the odor regulations during the on-site investigation.						
Comp. No.	NE9367	Comp. Info	On 1/16/04 at 4 p.m., the complainant noticed a hog manure smell from the Premium Standard Farms' Whitetail facility. By 5:30 p.m., the odor had intensified and was horrible. The wind was out of the East Southeast.				
NERO	1/20/2004	1/20/2004 PSF WHITETAIL	Unionville	Putnam	Odors	Fred, Leta & Melody Torrey	SMB
Comments	Mr. Boone conducted an on-site investigation while in the area. The winds were variable, blowing from the South Southeast to the South Southwest at less than 5 mph, with a temperature of about 25 degrees F. He checked for odors and found odors present, but at less than a 2:1 threshold. Odors were not detectable in front of the complainants' house at the time of the investigation. No violation of the odor regulations found during an on-site investigation.						
Comp. No.	NE9368	Comp. Info	On 1/17/04 at 5 a.m., the complainant noticed a strong hog manure smell from the Premium Standard Farms' Whitetail facility. The wind was out of the East and it was very foggy.				